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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF WASHINGTON  
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10 BACILIO RUIZ TORRES and JOSE  
11 AMADOR, as individuals and on behalf of  
12 all other similarly situated persons,

13 Plaintiffs,

14 v.

15 MERCER CANYONS, INC.,

16 Defendant.  
17  
18

No. 1:14-cv-03032-SAB

**ORDER GRANTING FINAL  
APPROVAL OF CLASS  
ACTION SETTLEMENT**

19 Before the Court is Plaintiffs' Motion for Final Approval of Class Action  
20 Settlement, ECF No. 272. The Court planned to schedule a Final Approval  
21 Hearing, but because no class member filed a written statement objecting to the  
22 proposed class settlement, the Court finds that a Final Fairness Hearing is  
23 unnecessary. The Court, having reviewed the briefing and record, is fully informed  
24 and grants final approval of the class action settlement.  
25

26 **BACKGROUND**

27 On March 14, 2014, named Plaintiffs and class representatives Bacilio Ruiz  
28 Torres and Jose Amador filed a proposed class action complaint with this Court.

**ORDER GRANTING FINAL APPROVAL OF CLASS ACTION ... ^ 1**

1 They alleged that in 2013 Defendant Mercer Canyons, Inc. failed to inform them  
2 and other putative class members of vineyard jobs paying \$12.00 an hour available  
3 under the H-2A worker visa program. They alleged this was in violation of  
4 29 U.S.C. § 1831(e) and 29 U.S.C. § 1821(f) and constituted an unfair or  
5 deceptive practice under RCW 19.86.020.

6 This case involved extensive discovery and motions practice. In particular,  
7 the Court denied Defendant's motion for summary judgment on all claims, its  
8 motion to reconsider, and its motion to certify the summary judgment issue for  
9 interlocutory appeal.

10 On April 8, 2015 the Court granted a motion to certify a class. In particular,  
11 the Court certified an Inaccurate Information class defined as:

12  
13 All domestic migrant and seasonal farm workers who: 1) were  
14 employed as vineyard workers by Mercer Canyons in 2012; 2) sought  
15 employment at Mercer Canyons in 2013 between February 4 and June  
16 15, 2013; or 3) performed vineyard work at Mercer Canyons between  
17 March 24 and September 15, 2013, and were not referred by  
18 WorkSource.

19  
20 ECF No. 134 at 12:20-25.<sup>1</sup> Pursuant to Fed. R. Civ. P. 23(b)(3) and (c)(5), the  
21 Court also certified a subclass of:

22  
23 All domestic and seasonal farm workers who performed vineyard  
24 work between March 24 and September 15, 2013 for Mercer  
25 Canyons, were paid less than \$12 an hour, and were not referred by  
26 WorkSource.

27  
28 <sup>1</sup> The Court granted the parties' Stipulated Motion to Exclude Perez Plaintiffs, ECF No. 257, so the five individuals identified therein are excluded from the class and the final order and judgment. ECF No. 269.

1 *Id.* at 13:1-4. This class sought relief for alleged violations of 29 U.S.C. 1832(a),  
2 29 U.S.C. § 1822(a), and RCW 49.52.052(2) through statutory damages available  
3 under 29 U.S.C. § 1854(c)(1).

4 The order certifying the class and subclass was reviewed through  
5 interlocutory appeal by the United States Court of Appeals for the Ninth Circuit,  
6 and affirmed on August 31, 2016. *Torres v. Mercer Canyons Inc.*, 835 F.3d 1125,  
7 1125 (9th Cir. 2016). The Court set a new trial for April 2017 and considered  
8 several pending motions for summary judgment filed by Plaintiffs.

9 The Court did not have the opportunity to rule on these motions because in  
10 early 2017 the parties began a second round of mediation, conducted by United  
11 States Magistrate Judge James Hutton, which resulted in this agreement. On  
12 March 7, 2017, the Court granted preliminary approval of the class action  
13 settlement including enhancement awards of \$7,500 each to the two named  
14 Plaintiffs. ECF No. 264. The Court also granted the Plaintiffs' Motion to Award  
15 Attorney Fees in the amount of \$650,000. ECF No. 268.

16 The Court enters the following findings of fact and conclusions of law:  
17

#### 18 **A. Jurisdiction**

19 1. The Court has subject matter jurisdiction over the claims in this case and  
20 personal jurisdiction over the Parties, including all Class Members, pursuant to 28  
21 U.S.C. § 1331 (federal questions), 29 U.S.C. § 1854 (AWPA), and 28 U.S.C.  
22 § 1367 (supplemental jurisdiction).  
23

#### 24 **B. Notice to Settlement Class and Opportunity to Object**

25 2. As demonstrated by the declaration of Arasele Bueno and the attached  
26 Exhibits, Plaintiffs provided notice to the class in the manner and form approved  
27 by the Order Granting Preliminary Approval. The Court finds the Plaintiffs  
28 conducted additional efforts to notify class members and these efforts were the

1 best practicable efforts under the circumstances and complied fully with the Order  
2 Granting Preliminary Approval, the Federal Rules of Civil Procedure, and the  
3 constitutional requirements of due process under federal and state law.

4 3. The Court has determined that a full opportunity has been given to class  
5 members to be heard in opposition to the terms of the Settlement Agreement.

6 4. No class member filed any objection to the settlement by the June 30,  
7 2017 deadline for doing so.

### 8 9 **C. Fairness and Adequacy of Settlement Agreement**

10 5. The Court has carefully considered all the papers, evidence, and  
11 arguments before it and has made its independent judgment that: (1) Plaintiffs'  
12 case was sufficiently strong to justify a valuable settlement; and rulings on class  
13 certification and summary judgment indicate that Plaintiffs' claims were plausibly  
14 meritorious; (2) a two-week jury trial representing the interests of over six hundred  
15 class members epitomizes the risk and complexity of litigation; given the appeals  
16 and many motions to reconsider filed in this case, the Court concludes that further  
17 post-trial and appellate litigation would have been likely; (3) the amount offered in  
18 settlement is fair and reasonable; (4) thousands of documents have been  
19 exchanged in discovery; and the settlement negotiations were significant,  
20 including two mediations with a Federal Magistrate; (5) the attorneys involved  
21 have litigated the case expertly and in their long experience in class actions and  
22 labor work conclude the settlement is fair and reasonable; (6) a majority of the  
23 class has responded by submitting claims and no class member has objected to the  
24 settlement. *See In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 944 (9th  
25 Cir. 2015) (quoting *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th  
26 Cir. 2004)).

27 6. Having considered the foregoing, as well as the lack of any objections;  
28 the costs, risks and delays of continued litigation versus the benefits provided by

1 the settlement; and this Court's knowledge of this Action, the Court finds and  
2 concludes that the settlement is in the best interest of the class and is fair,  
3 reasonable, and adequate as to all class members.  
4

5 **D. Attorney Fees**

6 7. This Court has considered the Plaintiffs' request for an award of attorney  
7 fees included in the proposed Settlement Agreement, and separately granted the  
8 Plaintiffs Motion for Attorney Fees (ECF Nos. 254 & 268) finding the proposed  
9 award fair and reasonable.  
10

11 **ACCORDINGLY, IT IS HEREBY ORDERED:**

12 1. Plaintiffs' Motion for Final Approval of Class Action Settlement, ECF  
13 No. 272, is **GRANTED**.

14 2. The terms of the Settlement Agreement (ECF No. 253) are granted final  
15 approval, are confirmed as fair, reasonable and adequate, are adopted by the Court  
16 as though fully set forth herein, and are binding on Plaintiffs, class members and  
17 Defendant.

18 3. Defendant shall pay \$545,000 as the settlement fund to compensate class  
19 members for all claims no later than 31 days from entry of this order; each class  
20 member shall receive \$1,000 in non-wage damages under the Washington  
21 Consumer Protection Act and statutory damages under AWP; each subclass  
22 member shall receive an additional \$500 for statutory damages under AWP;  
23 finally each class member shall receive a pro-rata share of 40% of the balance of  
24 the settlement fund in non-wage damages. Pursuant to paragraph 10(a) of the  
25 Settlement Agreement, \$66,600 of the settlement fund shall be applied toward  
26 Defendant's responsibility to pay Plaintiffs' attorney fee award.

27 4. This Court approves named Plaintiffs and class representatives Bacilio  
28 Ruiz and Jose Amador a payment of \$7,500 each for their services as class

1 representatives and Defendant shall pay this amount no later than 31 days from  
2 entry of this order.

3 5. This Court approved an award of attorneys' fees in the amount of  
4 \$650,000 (ECF No. 268); Defendant shall pay the first \$300,000 (plus \$66,600  
5 from the settlement fund, *see* Par. 3, *supra*) no later than 31 days from entry of this  
6 order, and the remaining \$283,400 within twelve months from entry of this order.

7 6. Upon payment in paragraphs 3 through 5 of this Order, the claims of  
8 Plaintiffs and class members shall be released pursuant to paragraphs 15 and 18(d)  
9 of the Settlement Agreement (ECF No. 253).

10 7. This case will not be dismissed until Defendant has made all payments in  
11 paragraphs 3 through 5 of this Order.

12 **IT IS SO ORDERED.** The District Court Executive is hereby directed to  
13 enter this Order and provide copies to counsel.

14 **DATED** this 14th day of August, 2017.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

Stanley A. Bastian  
United States District Judge